

-----Original Message-----

From: Buxbaum, Edward M. [mailto:ebuxbaum@wtplaw.com]
Sent: Friday, October 10, 2003 5:21 PM
To: Gerry Kowalski
Subject: RE: Surreply

Gerry - I understand your position - I just don't agree with it. That said, we will file a formal motion to file the surreply and you can oppose it in accordance with the schedule set forth in Judge Legg's 10-9 letter. - Ed

-----Original Message-----

From: Gerry Kowalski [mailto:kowalski@CooperWalinski.com]
Sent: Friday, October 10, 2003 4:26 PM
To: Buxbaum, Edward M.
Subject: RE: Surreply

i am sure that judge legg will agree with whatever we agree to. i will agree to allow you to file a surreply if we can file a sursurreply. since we filed the motion, we should be able to file the last brief. if this is not acceptable than we oppose the filing of a surreply. let me know

-----Original Message-----

From: Buxbaum, Edward M. [mailto:ebuxbaum@wtplaw.com]
Sent: Friday, October 10, 2003 3:55 PM
To: Gerry Kowalski
Subject: RE: Surreply

Gerry - As far as I can tell, while our local rules make provision for a Surreply, there is no such provision for a Sur - Surreply. I suggest that you ask the Court for permission to file such a pleading. If Judge Legg will allow it, I will not object. One other matter - I note that our briefing schedule calls for our Reply and Opposition to your Cross Motion for Summary Judgment to be filed on 10-13. It turns out that 10-13 is Columbus Day, and our Federal Court is closed. Accordingly, we will be filing on the 14th. If you want 1 additional day for your Reply, that is fine with me. Ed

-----Original Message-----

From: Gerry Kowalski [mailto:kowalski@CooperWalinski.com]
Sent: Friday, October 10, 2003 3:28 PM
To: Buxbaum, Edward M.
Subject: RE: Surreply

I do not oppose a surreply as long as we can file a sursurreply(?). if this is acceptable, please propose reasonable filing dates that we can submit to the judge.

-----Original Message-----

From: Buxbaum, Edward M.
[mailto:ebuxbaum@wtplaw.com]
Sent: Friday, October 10, 2003 11:16 AM
To: Gerry Kowalski
Subject: Surreply

Gerry - As you are aware, I contacted Judge Legg regarding my desire to file a Surreply in response to your Reply Memo regarding the Plaintiff's Motion to Compel and for Sanctions. We received today via electronic correspondence a response from the Court directing me to inquire whether you oppose my request to file a Surreply. If there is no opposition the Court will permit such a filing. If you oppose the request, the Court has set forth a schedule for the both filing of a formal motion for leave to file the Surreply and your response. Please advise me ASAP whether you oppose my request.
Thanks - Ed